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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/601,890 | 06/24/2003 | Ryuhei Nishida | D-1451 | 1287 |
| 32628 | 7590 | 12/01/2004 | | |
| HAUPTMAN KANESAKA BERNER PATENT AGENTS SUITE 300, 1700 DIAGONAL RD ALEXANDRIA, VA 22314-2848 | | | | |
| EXAMINER ELOSHWAY, NIKI MARINA | | | | |
| ART UNIT | | PAPER NUMBER | | |

3727

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,890

Applicant(s)

NISHIDA, RYUHEI

Examiner

Niki M. Eloshway

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1- are rejected under 35 U.S.C. 102(b) as being anticipated by

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morini (U.S. 5,163,571) in view of Gargione (U.S. 5,465,858). Morini teaches a cap having a cap main portion 2 and a ring member 1. The cap main portion 2 is shown in figure 1 and has window holes between elements 6. The ring member is disposed inside the cap main portion, as shown in figure 2, and has a single engaging piece 12.

Morini does not teach a plurality of engaging pieces. Gargione teaches that it is known to provide a two part closure with a plurality of engaging pieces instead of a single circumferential piece (see elements 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the closure of Morini with the plurality of engaging pieces of Gargione replacing the single circumferential piece of Morini, in order to allow the closure to be applied on the container more easily while maintaining sufficient strength to prevent removal of the ring.

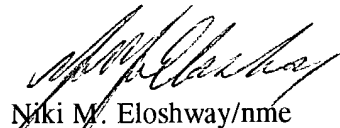
Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the ring member.

7. THIS ACTION IS NON-FINAL.

8. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (571) 272-4538. The examiner is in the office on Thursdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Receptionist at (703) 308-1148.


Niki M. Eloshway/nme
Patent Examiner
November 26, 2004

Form PTO-1449 U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE
(REV. 2-83)

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

ATTORNEY SERIAL NO. FILING DATE GROUP APPLICANT
DOCKET NO.

D-1451 10/601,890 06/24/2003 Ryuhei Nishida

U.S. PATENT DOCUMENTS

| EXAMINER INITIAL* | DOCUMENT NUMBER | DATE | NAME | CLASS | SUB- CLASS | FILING DATE |
|----------------------|--------------------|------|------|-------|---------------|----------------|
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FOREIGN PATENT DOCUMENTS

| EXAMINER INITIAL* | DOCUMENT NUMBER | DATE | COUNTRY | CLASS | SUB-C LASS | TRANSLATION YES NO |
|----------------------|--------------------|----------|---------|-------|---------------|-----------------------|
| <i>MC</i> | 2561260 | 09/19/96 | Japan | | | X |
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OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

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|---|------------------------------------|
| EXAMINER <i>[Signature]</i> | DATE CONSIDERED <i>11-26-04</i> |
| EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. | |